

2 December 2013

APESB issues revised APES 215 *Forensic Accounting Services*

Accounting Professional & Ethical Standards Board Limited (APESB) has issued the revised APES 215 *Forensic Accounting Services* (APES 215) to update the existing APES 215 (issued December 2008).

Please refer to Appendix 1 of this technical update for details of the revisions. The revised APES 215 will be effective for Engagements or Assignments commencing on or after 1 April 2014 with early adoption permitted.

The revised standard is available from APESB's website: www.apesb.org.au

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Appendix 1

Revision to APES 215 (issued December 2008)

Accounting Professional & Ethical Standards Board Limited (APESB) has approved the following revisions to APES 215 *Forensic Accounting Services* which was originally issued In December 2008.

Paragraph Reference	Revisions
1.1	Accounting Professional & Ethical Standards Board Limited (APESB) issues professional standard APES 215 <i>Forensic Accounting Services</i> (the Standard), which is effective for Engagements or Assignments commencing on or after 01 July 2009 <u>1 April 2014</u> . Earlier adoption of this Standard is permitted.
1.5	Where a Professional Service Activity which, when it commenced was not a Forensic Accounting Service, later becomes such a service, then the Member shall comply with the requirements of this Standard from that time onwards.
1.7	Members shall be familiar with relevant Professional Standards and guidance notes when providing Professional Forensic Accounting Services. All Members shall comply with the fundamental principles outlined in the Code.
2	<p>Client means an individual, firm, entity or organisation to whom Professional Services <u>Activities</u> are provided by a Member in Public Practice in respect of Engagements of either a recurring or demand nature.</p> <p>Consulting Expert Service means a Professional Service <u>Activity</u> provided in the context of Proceedings, other than an Expert Witness Service, a Lay Witness Service or an Investigation Service. It includes acting as an adviser, an arbitrator, mediator, member of a professional tribunal, expert in an expert determination, referee or in a similar role.</p> <p>Court means any body described as such and all other tribunals <u>bodies</u> exercising judicial or quasi-judicial functions and includes professional disciplinary tribunals, industrial and administrative <u>tribunals</u>, statutory or parliamentary investigations and inquiries, royal commissions, arbitrations and mediations.</p> <p>Expert Witness means a Member who has engaged or, assigned or <u>otherwise obligated</u> to provide an Expert Witness Service. As an Expert Witness, the Member may express opinions <u>or provide Other Evidence</u> to the Court based on the Member's specialised <u>knowledge derived from the Member's training, study or experience</u> on matters such as whether technical or Professional <u>Standards</u> have been breached, the amount of damages, the amount of an account of profits, or the amount of a claim under an insurance policy. <u>Generally all opinion evidence is expert evidence if it is wholly or substantially based on the specialised knowledge derived from the Member's training, study or experience, however not all expert evidence is opinion evidence. Expert evidence may be opinion or Other Evidence.</u></p> <p>Expert Witness Service means a Professional Service <u>Activity</u> provided in the context of Proceedings to give expert evidence in a Report or, in certain circumstances, orally.</p>

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	<p>Firm means</p> <ul style="list-style-type: none"> (a) A sole practitioner, partnership, corporation or other entity of professional accountants; (b) An entity that controls such parties <u>through ownership, management or other means</u>; (c) An entity controlled by such parties <u>through ownership, management or other means</u>; or (d) An Auditor-General's office or department. <p>Independence means</p> <ul style="list-style-type: none"> (a) Independence of mind - the state of mind that permits the provision of an opinion without being affected by influences that compromise professional judgement, allowing an individual to act with integrity, and exercise objectivity and professional scepticism; and (b) Independence in appearance - the avoidance of facts and circumstances that are so significant a reasonable and informed third party, having knowledge of all relevant information, including any safeguards applied, would reasonably conclude a Firm's, or a Member's, integrity, objectivity or professional scepticism had <u>has</u> been compromised. <p>Investigation Service means a Professional Service <u>Activity</u> to perform, advise on, or assist with an investigation, whether or not <u>or</u> in connection with allegations of, or concerns regarding conduct that may be illegal, unethical or otherwise improper <u>in respect of which the Member has a reasonable expectation that the matter will be brought before a Court</u>.</p> <p>Lay Witness means a Member who has been engaged or <u>assigned or otherwise obligated</u> to provide a Lay Witness Service.</p> <p>Lay Witness Service means a Professional Service <u>Activity</u> provided in the context of Proceedings to provide evidence other than expert evidence, whether orally or in the form of a Report or both. This service involves the Member giving evidence on matters within the Member's professional knowledge that are directly observed or perceived by the Member.</p> <p>Member means a member of a Professional <u>Body</u> that has adopted this Standard as applicable to their membership, as defined by that Professional <u>Body</u>.</p> <p>Member in Business means a Member employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or Professional <u>Bodies</u>, or a Member contracted by such entities.</p> <p>Member in Public Practice means a Member, irrespective of functional classification (e.g. audit, tax or consulting) in a Firm that provides Professional Services. The term is also used to refer to a Firm of Members in Public Practice and means a practice entity as defined by the applicable Professional <u>Body</u>.</p> <p>Other Evidence means <u>evidence which does not provide an opinion, but which requires the application of the Expert Witness's specialised knowledge derived from the Expert Witness's training, study or experience. An example</u></p>

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	<p>might be where a Member provides a summary of the sales by month by product by geography based on the information contained within a series of invoices and a general ledger. Whilst it may be a matter of fact as to what sales were made, the extraction and summary of this information is facilitated by the Member's specialised knowledge. Another example requiring specialised knowledge might be where a Member sets out the accounting standards that are relevant to particular types of transactions without actually expressing an opinion as to whether the actual treatment is in line with those standards.</p> <p>Proceedings means a matter before a Court, a matter which the Member has a reasonable expectation will be brought before a Court or a matter in which the Member is undertaking Professional Services <u>Activities</u> to help a Client or Employer make an assessment as to whether a matter should be brought before a Court.</p> <p>Professional Activity means an activity requiring accountancy or related skills undertaken by a Member, including accounting, auditing, taxation, management consulting, and financial management.</p> <p>Professional Bodies means the Institute of Chartered Accountants Australia, CPA Australia and the Institute of Public Accountants.</p> <p>Professional Services means Professional Activities performed for Clients. services requiring accountancy or related skills performed by a Member including accounting, auditing, taxation, management consulting and financial management services.</p> <p>Professional Standards means all Standards issued by Accounting Professional & Ethical Standards Board Limited and all professional and ethical requirements of the applicable pProfessional bBody.</p>
3.2	In accordance with Section 100 <i>Introduction and Fundamental Principles</i> of the Code, a Member shall observe and comply with the Member's public interest obligations when the Member provides <u>providing</u> a Forensic Accounting Service.
<u>3.5</u>	<u>When a Member is requested to perform an Expert Witness Service and the Member or the Member's Firm has previously provided a Forensic Accounting Service other than an Expert Witness Service, the Member shall consider whether the Member is able to perform the Expert Witness Service in an objective manner.</u>
<u>3.56</u>	When a Member in Public Practice is engaged to perform a Forensic Accounting Service which requires Independence or where a <u>when the Member in Public Practice</u> purports to be independent when in performing a Forensic Accounting Service, the Member shall comply with Independence as defined in this Standard.
<u>3.4011</u>	A Member who is providing an Expert Witness Service shall disclose <u>all</u> matters in the Member's Report that will <u>would</u> assist the Court to assess the degree of the Member's Independence.
<u>3.4213</u>	Forensic Accounting Services generally require a Member to have specialised knowledge derived from the Member's training, study or experience. Before accepting an Engagement or Assignment to provide a Forensic Accounting Service, a Member should exercise professional judgement to determine if the Member is competent to provide the requested Forensic Accounting Service having regard to the specialised knowledge derived from the Member's

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	training, study or experience.
3.1315	Where a Forensic Accounting Service or part thereof requires the consideration of matters that are outside a Member in Public Practice's professional expertise, the Member shall seek expert assistance or advice from a suitably qualified third party on those matters outside the Member's professional expertise or decline all, or that part of, the Forensic Accounting Service. Where the Member relies upon the advice of a third party, the Member shall disclose in any Report issued by the Member the name and qualifications of the third party and the area in the Report where the third party advice has been obtained.
3.15	If a Member acting as an Expert Witness expresses an opinion that is based on the work of another expert then the Member shall state in the Member's Report that the Member's opinion is based in part, on the assumption that the other expert's opinion is valid.
3.18	Where <u>Subject to legislative requirements, where</u> a Client or Employer has given a Member in Public Practice permission to disclose confidential information to a third party, it is preferable that this permission is in writing. Where oral permission is obtained, a contemporaneous note should be made and kept on file by the Member recording the relevant details of the Client's <u>or Employer's</u> permission.
5.1	If a Member in Public Practice is asked to provide an Expert Witness Service to a Client where: (a) the Member or the Member's Firm is providing or has provided another Professional Service to the Client; or (b) the Member or the Member's Firm is providing or has provided another Professional Service to a different Client, and the proposed Expert Witness Service is related to the other Professional Service, and the Member determines that a reasonable and informed third party having knowledge of all the relevant information, including safeguards applied, would regard the objectives of the proposed Expert Witness Service to be undertaken as being inconsistent <u>giving rise to a conflict</u> with the objectives of the other Professional Service, then the Member shall decline the Engagement or the relevant part thereof.
5.2	Subject to paragraph 5.3, if a Member in Business is asked to provide an Expert Witness Service to the Member's Employer where: (a) the Member or another employee of the Member's Employer has provided, or is providing, another service to the Employer which is related to the proposed Expert Witness Service; or (b) the Member's Employer has an interest in the outcome of the Proceedings (whether as a party or otherwise), and the Member determines that a reasonable and informed third party having knowledge of all the relevant information, including safeguards applied, would regard the objectives of the proposed Expert Witness Service to be undertaken as being inconsistent <u>giving rise to a conflict</u> with the objectives of the other service, or if the Member's objectivity is impaired as a result of the Employer's interest in the outcome of the Proceedings, then the Member shall decline the Assignment or the relevant part thereof.

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5.4	<p>A Member who is acting as an Expert Witness shall comply with the following:</p> <ul style="list-style-type: none"> (a) the paramount duty to the Court which overrides any duty to the Client or Employer; (b) a duty to assist the Court on matters relevant to the Member's area of expertise in an objective and unbiased manner; (c) a duty not to be an advocate for a party; <u>and</u> (d) a duty to make it clear to the Court when a particular question or issue falls outside the Member's expertise.
5.6	<p>Subject to any legal requirements or restrictions, a Member providing an Expert Witness Service shall clearly communicate in any Report:</p> <ul style="list-style-type: none"> (a) the instructions received, whether oral or written; (b) any limitations on the scope of work performed; (c) details whether any of the opinions, findings or conclusions of the Member are not based wholly or substantially on the Member's specialised knowledge derived from training, study and experience that are relevant to the matters on which the Member is providing expert evidence; (d) the relationships, if any, the Member or the Member's Firm or the Member's Employer has with any of the parties to the Proceedings (including any of the matters referred to in paragraphs 3.89, 5.1, or 5.2) that may create a threat or a perceived threat to the Member's obligation to comply with the fundamental principles of the Code or the Member's paramount duty to the Court, and any appropriate safeguards implemented; (e) the extent, if any, of reliance by the Member on the work of others; (f) the opinions formed, <u>or Other Evidence given</u>, by the Member; (g) whether an opinion <u>or Other Evidence</u> is provisional rather than concluded, and, if so, the reasons why a concluded opinion <u>or concluded Other Evidence</u> has not been formed <u>provided</u>; (h) the significant facts upon which the opinions <u>or Other Evidence</u> are based; (i) the significant assumptions upon which the opinions <u>or Other Evidence</u> are based and the following matters in respect of each significant assumption: <ul style="list-style-type: none"> (i) whether the Member was instructed to make the assumption or whether the Member chose to make the assumption; and (ii) if the Member chose to make the assumption, then the reason why the Member made that choice; (j) if the Member considers that an opinion <u>or Other Evidence</u> of the Member may be misleading because a significant assumption is likely to mislead, then a statement to that effect and an explanation of why the assumption is likely to mislead; (k) where applicable, that the Member's opinion <u>or Other Evidence</u> is subject to the veracity of <u>based upon</u> another person's Rreport <u>Report</u> upon which the Member's Report is based;

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	<p>(l) the reasoning by which the Member formed the opinions <u>or arrived at the Other Evidence</u>, including an explanation of any method employed and the reasons why that method was chosen;</p> <p>(m) a list of all documents and sources of information relied upon in the preparation of the Report;</p> <p>(n) any restrictions on the use of the Report; and</p> <p>(o) a statement that the Expert Witness Service was conducted in accordance with this Standard.</p>
5.9	<p><u>Working papers document the work performed by the Member and the process by which the Member arrived at an opinion or Other Evidence that may or may not be used in a Report. A working paper is not considered a Report unless it was specifically designed to communicate expert evidence to the Court.</u></p>
6.2	<p>If a Member who was engaged or assigned to provide an Expert Witness Service becomes aware that an opinion expressed <u>or Other Evidence given</u> by the Member in a Report or in oral evidence was based on information that was false, misleading or contained material omissions and that situation has not been subsequently disclosed in a Report or in oral testimony, the Member shall promptly inform, as appropriate, the legal representative of the Client, the Employer or the Court of the situation. The Member shall also consider whether it is necessary to issue a supplementary Report.</p>
7.2	<p>A Member in Business who undertakes a Forensic Accounting Service should utilise a system of quality control that includes appropriate policies and procedures taking into consideration the following <u>dealing with</u> elements of quality control <u>including but not limited to</u>:</p> <p>(a) Leadership responsibilities for quality within the Employer;</p> <p>(b) Ethical requirements;</p> <p>(c) Human resources;</p> <p>(d) Assignment performance; and</p> <p>(e) Monitoring.</p>
Appendix 1	Facts, assumptions and opinions amended
Appendix 2	Decision tree schematic diagram added
Appendix 3	23 examples of Forensic Accounting Services added
Appendix 4	Summary of revisions to the previous APES 215 (issued December 2008) added